

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

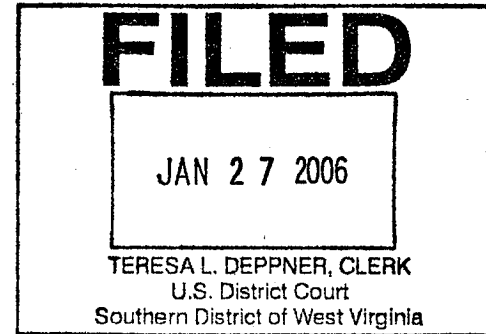
AMERICAN METALS & COAL
INTERNATIONAL, INC.,
a Delaware Corporation,

Plaintiff,

v.

WHITE MOUNTAIN MINING CO., LLC
a West Virginia Limited Liability Company,
APACHE MINING CO, LLC
a West Virginia Limited Liability Company,

Defendants,



Civil Action No. 2:05-0822

WHITE MOUNTAIN MINING CO., LLC
a West Virginia Limited Liability Company,

Counterclaimant and Third
Party Plaintiff,

v.

AMERICAN METALS & COAL
INTERNATIONAL, INC., a corporation;
AMERICAN METALLURGICAL COAL
SALES, L.L.C., a limited liability company;
and SCM, INC., a corporation

Counterclaim and Third Party Defendants,

SCM, INC., a corporation,

Counterclaimant and Third Party Plaintiff,

v.

WHITE MOUNTAIN MINING CO., LLC
a West Virginia Limited Liability Company,
APACHE MINING CO, LLC
a West Virginia Limited Liability Company,

Counterclaim and Third Party Defendants.

ANSWER OF WHITE MOUNTAIN MINING CO., LLC TO COUNTERCLAIM
AND THIRD PARTY COMPLAINT OF SCM, INC.

For its Answer to the Counterclaim and Third Party Complaint ("Counterclaim") filed by SCM, Inc. ("SCM"), White Mountain Mining Co., LLC ("WMM") states as follows:

First Defense

1. The Counterclaim fails to state a claim against WMM upon which relief can be granted.

Second Defense

2. SCM breached the contract set forth in WMM's Third Party Complaint. The parties supplemented the contracts set forth in Plaintiff's complaint to provide that with each shipment of coal by WMM to Wheeling Pittsburgh Steel under the contract SCM would place an additional spot order for WMM coal on its own account at the then market price so that the net payable for coal would have a blended price of approximately \$75 per ton. SCM breached the amended contract by failing to place the spot coal orders. As a consequence of SCM's breach, WMM was excused from further performance of the contracts.

Third Defense

3. SCM's claim against WMM is barred by the statute of frauds.

Fourth Defense

4. WMM asserts the defense of setoff to the extent of the matters set forth in the Counterclaim and Third Party Complaint.

Fifth Defense

5. SCM is estopped by its own conduct to assert the matters set forth in the Complaint.

Sixth Defense

6. SCM's claims are barred by the defense of laches.

7. WMM gives notice that it intends to rely upon such other defenses as may become available or apparent during discovery proceedings in this action and hereby reserves the right to assert such defenses.

Response to Specific Allegations of the Counterclaim

8. WMM admits the allegations in paragraphs 1, 2 and 3 of the Counterclaim.

9. WMM denies the allegation in paragraph 4 of the Counterclaim.

10. WMM admits the allegations in paragraphs 5 and 6 of the Counterclaim.

11. WMM denies the allegations in paragraph 7 of the Counterclaim.

12. WMM is without sufficient information to form a belief as to the truth of the allegation in Paragraph 8 of the Counterclaim and therefore denies the same.

13. WMM denies the allegation in paragraph 9 of the Counterclaim.

14. WMM denies the allegation in paragraph 10 of the Counterclaim.

15. WMM is without sufficient information to form a belief as to the truth of the allegation in Paragraph 11 of the Counterclaim and therefore denies the same.

16. WMM is without sufficient information to form a belief as to the truth of the allegation in Paragraph 12 of the Counterclaim and therefore denies the same.

17. WMM is without sufficient information to form a belief as to the truth of the allegation in Paragraph 13 of the Counterclaim and therefore denies the same.

18. WMM is without sufficient information to form a belief as to the truth of the allegation in Paragraph 14 of the Counterclaim and therefore denies the same.

19. WMM is without sufficient information to form a belief as to the truth of the allegation in Paragraph 15 of the Counterclaim and therefore denies the same.

20. In response to the allegation in Paragraph 16 of the Counterclaim, WMM admits that it entered into a coal sales agreement with SCM, denies all remaining allegations, and further incorporates by reference the allegations contained in Paragraphs 19 and 20 of WMM's Third Party Complaint.

21. WMM denies the allegation contained in paragraph 17 of the Counterclaim.

22. WMM hereby incorporates by reference its responses herein to the paragraphs realleged in Paragraph 18 of the Counterclaim.

23. WMM denies the allegations contained in paragraph 19 of the Counterclaim.

24. WMM denies the allegations contained in paragraph 20 of the Counterclaim.

25. WMM denies each and every allegation set forth in the Counterclaim not specifically admitted herein.

26 To the extent warranted by discovery and further development of this civil action, WMM reserves the right to (i) amend the admissions and denials in this Answer, and (ii) assert additional defenses, including but not limited to, the affirmative defenses set forth in Rule 8 of the Federal Rules of Civil Procedure.

WHEREFORE WMM requests that the Court grant the following relief in connection with SCM's Third Party Complaint and Counterclaim:

- (a) dismiss SCM's Third Party Complaint and Counterclaim;
 - (b) grant WMM a trial by jury on all issues so triable;
 - (c) award WMM its costs and reasonable attorney fees incurred in defense of this matter;
- and

(d) grant such other and further relief as may be just.

WHITE MOUNTAIN MINING CO., LLC
By Counsel,

LEWIS, GLASSER, CASEY
& ROLLINS, PLLC

By:  _____

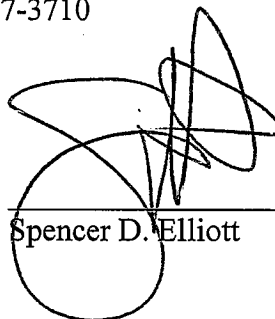
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 27th, 2006 he served the foregoing Answer to SCM's Third-Party Complaint and Counterclaim on the persons hereafter set forth by First Class United States Mail, postage pre-paid, and/or via electronic service to the address noted.

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